

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Eugene Westmoreland,)	
)	
<i>Plaintiff,</i>)	
)	23-cv-1851
-vs-)	
)	Judge Tharp, Jr.
Thomas Dart, Sheriff of Cook)	
County, and Cook County, Illinois,)	
)	
)	
<i>Defendants.</i>)	

PLAINTIFF’S RESPONSE TO DEFENDANTS’ RULE 12(e) MOTION

Defendants Sheriff and Cook County moved for a more definite statement pursuant to Rule 12(e) of the Federal Rules of Civil Procedure. Dkt. 44, Motion. Plaintiff Eugene Westmoreland respectfully requests that the Court deny this motion for the following reasons:

1. Plaintiff Eugene Westmoreland, a wheelchair-user detained at Cook County Jail, alleges there are two ramps in the basement of his housing unit, the Residential Treatment Unit (RTU), that violate the Americans with Disabilities Act (ADA) federal structural standards. Dkt. 1, Complaint ¶ 9. He also alleges that he traversed a dangerous ramp in the basement of Division 4 and suffered physical injuries when he fell out of his wheelchair. *Id.* ¶¶ 14-16.
2. Rule 12(e) “allows a motion in lieu of an answer when a complaint is ‘so vague or ambiguous that the party cannot reasonably prepare a response.’” *Thakkar v. Ocwen Loan Servicing, LLC*, 2017 WL 3895596, at *7 (N.D. Ill. 2017) (Tharp, J.) (citing Fed. R. Civ. P. 12(e)). As the Court has explained “such a motion will only be granted ‘if the complaint is so unintelligible that the defendant

cannot draft responsive pleading.” *Id.* (citing *Mission Measurement Corp. v. Blackbaud, Inc.*, 216 F.Supp.3d 915 (N.D. Ill. 2016)).

3. Defendants cannot plausibly meet this demanding standard. Defendants answered the complaint on May 31, 2023. Dkt. 13, Cook County Answer; Dkt. 14, Sheriff Answer. Defendants’ representation they “have not yet filed any response including (other) Rule 12 motions, or an Answer, in response to Plaintiff’s claims,” see Dkt. 44, Motion at 6, is a misstatement.

4. Since June 5, 2023, Magistrate Judge Gilbert has been monitoring discovery. See Dkt. 16, Minute entry. As recently as August 18th, the date defendants filed this meritless motion, the parties submitted a joint status report regarding the status of discovery. See Dkt. 43, Joint Status Report.

It is therefore respectfully requested that the Court deny defendants’ motion for relief under Rule 12(e) of the Federal Rules of Civil procedure.

Respectfully submitted,

/s/ Patrick W. Morrissey
Thomas G. Morrissey, Ltd.
10257 S. Western Ave.
Chicago, IL 60643

an attorney for plaintiff